



U.S. DEPARTMENT of STATE

Haiti

Country Reports on Human Rights Practices - [2002](#)

Released by the Bureau of Democracy, Human Rights, and Labor
March 31, 2003

Haiti is a republic with an elected president and a bicameral legislature. The 1987 Constitution remains in force, but many of its provisions were not respected in practice. The political impasse and political violence stemming from controversial results of May 2000 legislative and local elections continued during the year. In May 2000, the Provisional Electoral Council (CEP) manipulated the results of the election to ensure that Fanmi Lavalas (FL) maintained control of the Senate. The opposition parties boycotted July 2000 runoff elections and the November 2000 presidential elections, in which Jean-Bertrand Aristide was elected with extremely low voter turnout. Efforts by the Organization of American States (OAS) to resolve the dispute were not successful. The 1987 Constitution provides for an independent judiciary; however, it is not independent in practice and remained largely weak and corrupt, as well as subject to interference by the executive and legislative branches.

The Government established the Haitian National Police (HNP) in 1995 as the sole security force in the country after disbanding the Armed Forces of Haiti (FAd'H). Despite a cadre of competent and committed officers trained by U.S., French, and Canadian authorities, HNP officials at all levels were implicated in corruption, incompetence, and narcotics trafficking. The HNP failed to pursue criminals, promoting a growing condition of judicial impunity. The HNP is officially an autonomous civilian institution; however, political leaders increasingly exercised control over elements of the police and influenced it for personal or political gain. President Aristide filled many key HNP positions with political allies lacking experience, training, and credibility. Some parliamentarians, mayors, and members of local government councils (CASECs) exercised arrest authority without legal sanction. The HNP has a variety of specialized units, including a crisis response unit (SWAT); a crowd control unit (CIMO) serving Port-au-Prince and the Western department; crowd control units (UDMOs) serving each of the remaining eight departments; and a small Coast Guard unit. The Special Brigades (BS) reportedly carry out politically motivated executions and is comprised of pro-FL paramilitaries. The large and well-funded Presidential Security Unit was officially part of the HNP, but had a stand-alone budget and was administratively and functionally independent. Civilian deaths and serious injuries resulted from the inability of HNP, CIMO and SWAT units to maintain order. Some members of the HNP committed human rights abuses during the year.

The country has a market-based economy and state-controlled utilities, and its economic situation worsened significantly during the year. A small elite controlled much of the country's wealth, but two-thirds of the estimated 8 million citizens worked in subsistence agriculture and were extremely poor. The informal sector accounted for approximately 70 percent of all economic activity, making taxation problematic. Remittances, estimated at \$800 million in 2001, were a growing revenue source. Textiles accounted for approximately 85 percent of exports, but assembled goods, leather goods, and handicrafts also provided limited export revenue. The country imported 60 percent of its food, but produced mangoes, cocoa, essential oils, and coffee for export. The Haitian Institute for Statistics calculated a negative growth rate of 0.9 percent for this fiscal year. Inflation was approximately 14.8 percent.

The Government's human rights record remained poor, with political and civil officials implicated in serious abuses. There were credible reports of extrajudicial killings by members of the HNP. Police officers used excessive—and sometimes deadly—force in making arrests or controlling demonstrations and were rarely punished for such acts. Attacks on journalists and political dissenters by Fanmi Lavalas supporters continued. Prison conditions improved slightly, but were still poor and prisoners with valid release orders continued to be held in defiance of these orders. Legal impunity remained a major problem, and police and judicial officials often failed to respect legal provisions or pursue and prosecute suspected violators. The media was largely free and often critical of the Government, but most journalists practiced some form of self-censorship. From July through December, several radio stations closed down temporarily due to intimidation and threats. Abuse of children and violence and societal discrimination against women remained problems. Internal trafficking of children and child labor, especially in domestic servitude, remained a problem. Haiti was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

In January the OAS noted a worsening political, economic and social situation in the country in Resolution 806, calling for improvements in human rights and urging the Government to work toward ending all forms of political violence. The Inter-American Commission on Human Rights (IACHR) visited in May and August to examine the status of human rights and the

events of December 17, 2001 when an unknown number of unidentified gunmen attacked the National Palace in Port-au-Prince; 8 persons reportedly died and 15 persons were injured. Following the attack, progovernment groups attacked opposition members' offices and homes; one opposition member was killed. In June the OAS also began a Special Mission to Haiti to strengthen democratic institutions, with a focus on justice and human rights. In September OAS Resolution 822 called for a thorough inquiry into all politically motivated crimes, including the violence of December 17, 2001, and cited the need to strengthen independent police and judicial institutions to combat impunity.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary and Other Unlawful Deprivation of Life

There were credible reports of extrajudicial killings by members of the HNP and municipal government officials.

On January 6, Deputy Jocelyn Saint Louis of Saint Raphael shot and killed commune mayor Sernand Severe following an elections-related feud and the death of the deputy's nephew during a violent confrontation between the mayor and his supporters and the deputy's family and bodyguards. On February 5, the legislature lifted Saint Louis' immunity and he was still in pretrial detention at year's end.

On May 25, the HNP killed three youths from Cite Soleil, a Port-au-Prince slum. The authorities had not undertaken an investigation into the killing by year's end.

On July 5, the security guard for a government official in the town of Hinche beat a farmer to death for trespassing on land belonging to the official. There were no arrests or judicial action in this matter by year's end.

On July 29, under the orders of the mayor of Nan Chale, near Port de Paix, persons armed with stones, sticks and machetes beat a group of farmers involved in a land dispute. The armed individuals returned later that day in an HNP vehicle, and attacked and burned homes, and beat the residents. One resident died.

On November 28, Belladere Justice of the Peace Christophe Lozama, a reputed drug-dealer with close ties to FL, was shot during a clash with opposition demonstrators in Kenp, outside of Las Cahobas. On December 10, armed men broke into Las Cahobas jail, shooting and killing four persons and freeing four detainees—two of whom were opposition members arrested for Lozama's murder. Human rights workers investigating the incident reported that the police lacked the will to conduct a fair investigation into the case and noted that authorities targeted anti-FL demonstrators for questioning and arrest.

On December 8, armed men dressed in black identified as HNP took three brothers, Angelot and Andy Philippe, and Vladimir Sanon, from their home in Carrefour in Port-au-Prince. Later that day their bodies were found with gunshot wounds and taken to the city morgue. The boys had previously protested the December 1 police robbery and shooting of their friend, Marcellus Bongue. Authorities have not arrested and no examining judge has questioned any of the three policemen whom eyewitnesses identified as the last persons seen with the brothers.

In September an investigating judge indicted 10 people in connection with the December 2001 killing of journalist Brignol Lindor; however, he did not indict Petit Goave deputy mayor Duby Bony, who allegedly incited the murder when he said Lindor should be met with zero tolerance. By year's end, police had arrested only three of those indicted (see Section 2.a.).

The April 2000 killing of popular Radio Haiti-Inter host and journalist Jean Leopold Dominique, known for his criticism of the Government and of former coup leaders, remained unsolved. In April investigating judge Claudy Gassant resigned from the case and fled the country, claiming fear for his life. By mid-September Bernard St. Vil, the third judge assigned to the murder investigation, had questioned 12 persons, including Senator Dany Toussaint, considered a major suspect in the case; however, the Senate did not lift his parliamentary immunity.

There was no progress in several other high-profile killings, including those of Amos Jeannot (killed in 2000), Senator Yvon Toussaint and Jean Lamy (killed in 1999), and Chenel Gracien and Jean Pierre Louis (both killed in 1998). On April 12, investigating Judge Jocelyne Pierre interviewed Jackson Joanis, former head of the police antigang unit, regarding the 1994 murder of Jean Marie Vincent. Officially charged with murder, Joanis remained in pretrial detention in Petionville police station. Little action was taken on the ongoing investigation into the 1993 massacre of Cite Soleil residents by members of the FAd'H and an allied paramilitary group, the Revolutionary Front for the Advancement and Progress of Haiti (FRAPH).

Vigilante killings are a long established practice in the country; however, their incidence increased following President Aristide's "zero tolerance" exhortation to police and citizens to bypass the judicial system if they caught criminals in the act. During the year, human rights organizations, journalists, and opposition groups criticized the Government's support for this practice.

On May 31, residents of Cazeau lynched a thief. On July 5, an angry crowd pursued an Hinche city official's security agent who had beaten a peasant to death. They found him taking refuge at the local bishop's residence, stoned him to death, and ransacked the building. The HNP, saying it was powerless, did not respond to the bishop's calls. On July 15, a group of stevedore union members seized a low-level manager at the Port Authority and burned him alive during a clash with members of another union after the deaths of the stevedore union president and his colleague. The stevedores alleged that the manager had been involved in the union leader's death.

On March 27, months after issuance of an arrest warrant, police arrested Ronald Camille "Cadavre" for the September 2001 killing of activist Fritzner Jean. In December, due to serious illness, authorities transferred Camille from the national penitentiary to Saint Francois de Sales, a private hospital, where he remained at year's end.

b. Disappearance

There were credible reports of politically motivated disappearances.

On September 17, members of the HNP reportedly detained Felix Bien Aime, a gangster with government ties implicated in the events of December 2001 and in the 1999 Fort Mercredi massacre and two of his colleagues, Paul Mauzac Jean and Djal Normil. Despite demonstrations by Bien Aime's supporters, the HNP refused to comment on his detention or whereabouts. Human rights organizations believe that all three were killed.

On October 14, police arrested and beat two members of the Konvansyon Inite Demokratik (KID) opposition party, David Barjon and Jean Lafouche, after an argument over public housing. Their whereabouts remained unknown. The HNP did not comment on the case nor kept a written record of the arrest. Human rights organizations believe they were killed.

On October 23, the chief of the police unit assigned to the National Palace, Paul Voltaire, disappeared. He had reportedly uncovered a drug-trafficking ring involving progovernment supporters. Human rights organizations believe he was killed.

On October 26, authorities arrested former soccer player Emmanuel Auguste and took him to Carrefour police station. Family members visited him there that day. By the next day, Auguste had disappeared. Human rights organizations believe he was killed.

On November 13, ex-military officer and former Petionville police commissaire, Jean Lewis Bourgozin, disappeared. He reportedly was a close friend of Guy Philippe, an anti-Aristide former military officer. Human rights organizations believe he was killed.

There has been no further investigation of the human remains found at Titanyen but during the year there were frequent reports of new human remains found at Titanyen and other locations.

c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment

The 1987 Constitution prohibits the use of unnecessary force or restraint, psychological pressure, or brutality by the security forces; however, members of the security forces continued to violate these provisions. Police officers used excessive and sometimes deadly force in making arrests or controlling demonstrations and were rarely punished for such acts (see Section 1.a.). Torture and other forms of abuse were reported.

Police mistreatment of suspects at the time of arrest and during detention remained common in all parts of the country. Beating with fists, sticks, and belts was the most common form of abuse. Persons who reported such abuse often had visible injuries consistent with the alleged mistreatment. There were also isolated allegations of torture by electric shock. Mistreatment also took the form of withholding medical treatment from injured jail inmates.

The Government's record of disciplining police officers implicated in these offenses was inconsistent. Police were rarely prosecuted for abuse of detainees but were sometimes fined. Often the HNP simply fired officers guilty of flagrant abuses. The HNP Inspector General requested the removal of 88 police officers charged with abuse since January 2001; however, many were still on the payroll at year's end.

Despite substantial international assistance and some initial progress, the HNP was largely an ineffective institution with inadequate government support. Most new cadets entered through a competitive selection process, but the Government appointed more than half based on political and personal favoritism. In August a new class of 872 recruits began training.

CIMO was often accused of using excessive force against demonstrators (see Section 2.b.).

Locally elected officials allied with the FL increasingly exercised unauthorized law enforcement functions. The mayors of Hinche, Maissade, Miragoane, and Petit Goave employed small paramilitary groups to victimize and control local populations. These groups engaged in torture, property damage, and theft, and were usually better armed than local police. In rural areas,

members and agents of CASECs illegally assumed police functions such as serving warrants, arresting the accused, taking testimony (often for a fee), and seizing private property. Locally elected officials often abused citizens based on perceived political disloyalty, accusing them of attempts to destabilize the Government.

The Government did not pursue investigations of Maissade mayor Willot Joseph or Hinche mayor Dongo Joseph for their involvement in March 2001 attacks on two judges investigating their paramilitary group's beatings of opposition members in July 2000. In April 2001, authorities had arrested and then provisionally released Dongo Joseph. In December 2001, he resigned as mayor and was replaced by James Joseph, a member of the same paramilitary group. Dongo Joseph was reportedly working for the Ministry of Interior at year's end.

Prison conditions remained poor. The Penitentiary Administration Management (DAP) made some progress in improving prison administration and warden training. Prisoners and detainees continued to suffer from a lack of basic hygiene, malnutrition, poor quality health care, and, in some facilities, 24-hour confinement. Most prisons periodically suffered from lack of water, especially in the provinces. The incidence of preventable diseases such as beriberi, AIDS, and tuberculosis increased. The total prisoner population remained at approximately 3,600. However, the number of inmates incarcerated at the National Penitentiary dropped from 1,899 to 1,700 by year's end, due in part to concerted efforts to resolve cases.

Overcrowding prevented the separation of violent from nonviolent prisoners or convicts from those in pretrial detention. Many were incarcerated in temporary holding cells, particularly in the provinces.

Prison officials confirmed reports by international human rights observers of instances of inmate abuse by prison personnel; however, no statistics were available. Prisoners and detainees, ignorant of legal rights or doubtful officials would respond positively, rarely filed official complaints. During the year, 30 guards were subjected to disciplinary action—18 were fired, 5 were temporarily suspended, and 7 were fined.

The Government established a commission to investigate the 2001 riot at the National Penitentiary but the commission has not published a report of its findings. Authorities transferred some prisoners to other facilities a week after the riot.

The Government's Office of Citizen Protection monitored prison conditions and offered training to prison administrators on criminal procedures, particularly the constitutional requirement limiting preventive detention (*garde a vu*) to 48 hours. The U.N. Development Program (UNDP) continued technical assistance to the DAP, focusing on midlevel warden training and management information. The National Coalition for Haitian Rights (NCHR) actively monitored prison conditions in cooperation with the DAP, which offered a prisoners' rights awareness campaign and morale-boosting activities including a soccer tournament.

During the year, the DAP began objective testing of prison physicians and nurses to weed out those who were inadequately trained. Doctors were available in the capital but were less frequently available to those incarcerated in the provinces. Nurses did not conduct daily checkups on the physical condition of inmates. Dispensary supplies were limited, and family members often had to purchase needed medication. The DAP improved medicine procurement and distribution, and in June a new consultant for medical services began work at the National Penitentiary.

Fort National prison in Port-au-Prince is the only prison facility expressly for women and juveniles. In other prison facilities, women are housed in cells separate from men. However, in January 2000, U.N. Special Rapporteur for Violence against Women Radhika Coomaraswamy reported, based on her 1999 visit, that most female prisoners share living quarters with male prisoners. This subjects women to violence and sexual abuse.

In October Natacha Jean-Jacques, a 17 year old girl in pre-trial detention at Fort National (Port-au-Prince's female prison) since March 2000, gave birth to a son. In February she had reported to prison authorities that Ilus Denasty, a medical assistant, had raped her on February 19, after she refused his advances during a medical consultation. The DAP subsequently transferred the director of the prison and prison guards implicated in the rape, and recommended to the district attorney that charges be brought against Denasty. The trial for Jean-Jacques, originally detained and charged for homicide, had not occurred by year's end.

Due to overcrowding, juveniles often were held with adults.

The authorities freely permitted the International Committee of the Red Cross (ICRC), the Haitian Red Cross, and other human rights groups to enter prisons and police stations, monitor conditions, and assist prisoners and detainees with medical care, food, and legal aid. The Director General of the HNP and the DAP cooperated with the ICRC and the UNDP.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, security forces continued to use arbitrary arrest and detention. The Constitution stipulates that a person may be arrested only if apprehended during the commission of a crime, or on the basis of a written order by a legally competent official, such as a justice of the peace or magistrate. The authorities can only execute these orders between 6:00 a.m. and 6:00 p.m. and must bring the detainee before a judge within 48 hours of

arrest. In practice, officials frequently ignored these provisions. There were also instances of arrests by security forces and local officials lacking proper authority; mayors and members of local CASECs sometimes arrested persons in under-policed rural areas (see Sections 1.c. and 6.a.). Judges often issued arrest warrants with little or no evidence (see Section 1.f.). Locally elected officials and local HNP increasingly arrested spouses and other family members when they were unable to locate a suspect. Occasionally parents ask a judge to imprison a delinquent child.

Certain police jurisdictions routinely disregarded the 48-hour requirement and some detainees were held for years in pretrial detention. Although the 48-hour rule was violated in all parts of the country, it was most often and most flagrantly ignored in Jeremie, Cap Haitien, Petionville, and the Delmas commissariat of Port-au-Prince. Police or other government officials often apprehended people without warrants, or on warrants not issued by a duly authorized official. Moreover, arrests sometimes were made on charges such as sorcery or debt with no basis in law. The authorities frequently detained individuals on unspecified charges or pending investigation. The Government often resorted to arrest and detention on false charges or on the charge of "plotting against the security of the State," particularly in political or personal vendettas. Detainees were generally allowed access to family members and a lawyer of their own choosing. Many detainees could not afford the services of an attorney, and the Government did not provide free counsel. Bail is available at the discretion of the investigative judge (juge d'instruction). Bail hearings are not automatic, and judges usually granted bail only for minor cases and based on compelling humanitarian grounds such as a need for medical attention.

Prolonged pretrial detention was a serious problem. Judicial delays left an estimated 78 percent of the country's prison population awaiting trial (see Section 1.e.). The problem was most extreme in Port-au-Prince, with 88 percent of National Penitentiary inmates in pretrial detention status. Eighty-six percent of females and 95 percent of minor detainees were in pretrial detention. The Justice Ministry made efforts to address the problem: between May and September, Minister of Justice Brown ordered the release of 60 pretrial detainees, and 6 judicial officials newly assigned to the National Penitentiary in May 2001 freed detainees in 120 out of the 178 cases reviewed (see Section 1.c.). The prolonged detention of persons with valid release orders continued to be a problem (see Section 1.e.).

Prisoners with histories of opposition to the Government or affiliation with the Duvalier or de facto regimes were affected disproportionately by prolonged pretrial detention. By year's end, political prisoners still held despite valid release orders included Esteve Conserve, Leonard Lucas, Alexandre Paul, Jean-Michel Richardson, and Jean Enel Samedi. However, authorities released Leoncefils Ceance, Jean-Robert Lherisson, Rilande Louis, and Calero Vivas Fabien.

Prosper Avril, former general and President of the military government from 1988 to 1990, remained incarcerated at the National Penitentiary in Port-au-Prince at year's end. In May 2001, the authorities had arrested Avril during a book promotion tour and charged him with plotting against the State. In March the Gonaives Court of Appeals ruled this arrest illegal and ordered his release, which occurred on April 12. However, the authorities immediately rearrested him on new charges of complicity in a 1990 massacre of peasants in Piatre. Following self-imposed exile abroad in April, Judge Henry Kesner Noel admitted he had inserted Avril's name in the list of accused perpetrators of the Piatre massacre on the instruction of officials close to President Aristide. On October 22, the Gonaives Court of Appeals ruled the April arrest illegal and ordered Avril's release; however, the district attorney's office in Port-au-Prince did not comply. Avril remained incarcerated at year's end.

On September 23, police arrested Rosemond Jean, leader of CONOSOVIC, a nongovernmental organization (NGO) advocating government reimbursement of deposits lost in failed cooperative schemes) on charges of weapons possession and criminal conspiracy. On September 30, Jean's attorney filed a Writ of Habeas Corpus, noting arresting officers had not had an arrest or search warrant. As of year's end, the court had not yet ruled, and Jean remained incarcerated.

The Constitution prohibits the involuntary exile of citizens, and there were no reports of its use. Self-imposed internal and external exile were common among opponents of the regime.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, in practice the judiciary was subject to significant influence by the executive and legislative branches. Years of extensive corruption and governmental neglect left the poorly organized judicial system largely moribund. Judges assigned to politically sensitive cases complained about interference by the executive branch (see Section 1.a.).

At the lowest level of the justice system, justices of the peace issue warrants, adjudicate minor infractions, mediate cases, take depositions, and refer cases to prosecutors or higher judicial officials. Investigating magistrates and public prosecutors cooperate in the development of more serious cases, which are tried by the judges of the first instance courts. Thirty appeals court judges hear cases referred from the first instance courts, and the 11-member Court of Cassation, the country's highest court, addresses questions of procedure and constitutionality. In Port-au-Prince, seven judges sit on a special labor court with jurisdiction over labor disputes, but in the provinces courts of first instance adjudicate such cases.

The judicial apparatus follows a civil law system based on the Napoleonic Code; the Criminal Code dates from 1832, although it has been amended in some instances. The Constitution provides for the right to a fair public trial; however, this right was abridged widely in practice. The Constitution also expressly denies police and judicial authorities the right to interrogate suspects unless legal counsel or a representative of the suspect's choice was present or they waive this right; this right was also abridged in practice. While trials are public, most accused persons cannot afford legal counsel for interrogation or trial, and

the law does not require that the Government provide legal representation. Despite the efforts of local human rights groups and the international community to provide free legal aid, many interrogations occurred without presence of counsel. However, some defendants had access to counsel during trials. The Constitution provides defendants with a presumption of innocence and the right to be present at trial, to confront witnesses against them, and to present witnesses and evidence in their own behalf; however, in practice corrupt and uneducated judges frequently denied defendants these rights.

Systemic problems including underfunding and a shortage of adequately trained and qualified justices of the peace, judges, and prosecutors created a huge backlog of criminal cases, with many detainees waiting months or even years in pretrial detention for a court date (see Section 1.d.). There was no legal redress for prolonged pretrial detention following acquittal or dismissal of charges.

In most regions, judges lacked the basic resources (such as office space, legal reference texts, and supplies) to perform their duties. Professional competence was sometimes lacking as well. The qualifying yearlong course at the Magistrates' school requires no previous legal training. On September 13, 29 judges graduated from this course and in October a new class of at least 9 students began. Judges increasingly conducted legal proceedings exclusively in Creole rather than French, but language remained a significant barrier to full access to the judicial system (see Section 5). UNDP, supported by the Government, provided additional training for many segments of the judicial system, including new judges and attorneys.

The Constitution sets varying tenure periods for judges above the level of justice of the peace. However, in practice the Ministry of Justice exercised appointment and administrative oversight over the judiciary, prosecutors, and court staff. This Ministry can remove justices of the peace and in practice has occasionally dismissed judges above this level. During the year, citizens filed approximately 180 complaints against judges with the Ministry of Justice.

The Code of Criminal Procedure does not assign clear responsibility to investigate crimes, dividing the authority among police, justices of the peace, prosecutors, and investigative magistrates. Examining magistrates often received files that were empty or missing police reports. Autopsies were conducted only rarely, and autopsy reports seldom issued. The Code provides for 2 criminal court sessions ("assizes") per year in each of the 15 first instance jurisdictions for all major crimes requiring a jury trial; each session generally lasts for 2 weeks. During the year, the Port-au-Prince jurisdiction, largest in terms of caseload, met once for 1 week and heard only 7 homicide cases. Criminal assizes in Port-au-Prince have met only once a year since 1998, with the last meeting held in July.

Following the IAHCR's August 26–29 visit evaluating the status of human rights, the OAS expressed its deep concern about the rule of law, the lack of judicial independence, and impunity (see Section 4). The OAS Special Rapporteur recommended that the Government "take steps to ensure the autonomy, independence, and impartiality of the judiciary." During this visit the OAS held a 2-day seminar instructing local attorneys and officials about human rights law. During the year a local NGO, working with the International Foundation for Elections Systems (IFES) and the Dominican Republic NGO Foundation for Institutionalization and Justice (FINJUS), conducted education campaigns on judicial reform and promotion of judicial independence.

The Government has limited the return of criminal deportees from the United States to 600 per year, creating a large backlog of Haitian criminals in the United States waiting to be deported. Upon their return to the country, criminal deportees are detained until a family member agrees to take custody of them and their release order is processed. This generally takes one to two months, but has lasted as long as four months in unusual instances.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits interference with privacy, family, home, or correspondence; however, police and other security force elements routinely conducted searches without warrants.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected those rights in practice. Several times during the year, the Government publicly demonstrated strong support for free expression; however, there were several documented attacks on members of the press. Print and electronic media freely criticized the Government and opposition. However, in practice most media admitted to some self-censorship to avoid offending sponsors or the politically influential.

There were two French-language newspapers in the country, *Le Nouvelliste* and *L'Union*, with a combined circulation of less than 20,000 readers. *L'Union* is a government-run newspaper; its editor was the Secretary of State for Communication. *Le Nouvelliste* and some irregularly printed papers were frequently critical of government policies. There was virtually no Creole-language press.

With a literacy rate of approximately 52 percent and limited access to television, the most important medium is radio, especially those stations broadcasting in Creole. There are 275 private radio stations, with 43 in the capital alone. Most carried a mix of

music, news, and talk show programs that many citizens regard as their only opportunity to speak out on a variety of political, social, and economic issues. Uncensored foreign satellite and cable broadcasts were available but limited in impact: most citizens could not afford televisions. The few stations carrying news or opinion broadcasts freely expressed a wide range of political viewpoints.

Although most radio stations and other forms of telecommunications were nominally independent, they are subject to a 1997 law designating the State sole owner and proprietor of the airwaves. The State leases broadcast rights to private enterprises, retaining preemption rights in the event of a national emergency, including natural disasters. The Government did not exercise this right in practice.

There were several attacks on, or threats against, journalists during the year, and the legal system provided limited protection or redress. Journalists were accused of destabilizing the Government and often subjected to anonymous threats of violence, including threats of kidnapping and murder. Police and government officials often failed to protect journalists during civil unrest. The NGO Reporters Without Borders and local journalists' associations continued to protest attacks in prior years and called on the Government to provide security. The Government failed to do so, despite frequent expressions of support for free expression. The public and Popular Organizations (OPs) sometimes threatened journalists covering protests, civil unrest, and other large group events. In such cases, the Government's inability or unwillingness to provide adequate security to media outlets and journalists and tacit encouragement of "zero tolerance" contributed to an increased sense of vulnerability among members of the media who criticized the Government or FL. In the wake of the violence of December 17, 2001, 24 journalists or their family members went into self-imposed exile or sought refuge in an embassy, including journalists from Radio Caraïbes, Radio Galaxie, Radio Ibo, Radio Metropole, and Radio Vision 2000.

On September 4, IACHR announced that the "murder of journalists in Haiti, along with a large number of complaints regarding harassment and threats against journalists, the media, and other social communicators, have created an unfavorable environment for freedom of expression." The IACHR Special Rapporteur for Freedom of Expression concluded that those whose freedom of expression is curtailed "cannot always rely on effective judicial protection to detect those responsible, to put a stop to intimidation, and ensure reparation for the damage done." The IACHR urged the Government to ensure full exercise of the right to freedom of expression without being exposed to reprisals (see Section 4). The Special Rapporteur also recommended that the country amend its laws on contempt of public authority and the criminalization of offensive language when referring to government officials.

From September 21 through 27, a U.N. independent expert on human rights conducted a fact-finding mission and cited impunity and threats to free expression as major concerns. The expert found that journalists were often forced to practice self-censorship.

On February 9, police arrested radio journalist Genet Morin of the Magic Stereo station and several members of the KID party, and held them without charges (see Section 3). Authorities released Morin 5 days later under pressure from local and international human rights and journalist organizations. It was unclear whether police targeted him as a journalist or because he was with KID members.

On May 27, Saint Raphael HNP arrested journalists Darwin Saint-Julien and Allan Deshommes and 11 others, and transferred them by helicopter to the National Penitentiary in Port-au-Prince. The two journalists had been covering a demonstration by peasant activists from the leftist political group Batay Ouvriye when armed local residents attacked the crowd. During the clash, two local residents died. The journalists, one of whom had suffered severe machete injuries, were held without charges until June 8. Police cited the journalists' alleged political beliefs, specifically opposition to private sector investment, as justification for the arrest (see Section 6.a.).

In July Saint Marc police arrested the 82-year-old mother of a journalist and detained her for 8 days without charges. Her son had refused to retract an earlier report critical of a judge. The same month, Grand Goave mayor, Rigaud Xavier, slapped a journalist in court. The mayor was pressured to resign, but prosecutors brought no charges against him.

On September 16, Judge Fritzner Duclaire indicted 10 OP members for the December 2001 killing of Petit-Goave journalist, Brignol Lindor. Police had only arrested three persons by year's end (see Section 1.a.).

On September 10, the Association of Haitian Journalists submitted a formal protest regarding tax bills on nongovernment-affiliated media. Many media owners felt these bills were political reprisals based on earlier presidential comments that those who did not pay their taxes should not criticize the Government. The Director of Income Tax and media owners resolved the dispute amicably, with some owners receiving a payment schedule and others new audits.

On September 26, Radio Kiskeya temporarily went off the air after receiving threats that an OP was going to attack the station. Radio Caraïbes suspended news broadcasts to show solidarity with the threatened station. On September 27, three men threatened to set fire to Radio Ibo and the station closed briefly. The Secretary of State for Communication and the Prime Minister later visited Radio Kiskeya to support its operations. In a speech on October 10, President Aristide accused the media of involvement in a plot to destroy the Government, asserted an unspecified group was trying to denigrate the Government by saying it did not encourage a free press, and said fabricated threats to the media were the true threat to press liberty. FL leadership broadcast the same statements as part of an orchestrated campaign in the provinces and Port-au-Prince prior to the October 10 speech, repeating them in subsequent weeks.

There was no investigation into the December 2000 killing of sports broadcaster Geral Denoze. Investigations into the April 2000 killing of prominent radio commentator and journalist Jean Dominique and a security guard continued during the year, with a large gap between the resignation of one investigating judge and presidential appointment of a successor (see Section 1.a.). Local and international human rights groups frequently criticized the slow pace of the Dominique investigation. On the evening of December 25 in Petionville, armed men attempting to enter the home of Michele Montas, Dominique's widow, shot and killed Maxime Seide, her bodyguard. Bernard Sainvil, the judge investigating Dominique's murder, had previously announced that he would submit his findings in December. By year's end, he had not yet sent his report to the district attorney.

On November 21 members of the paramilitary group "Cannibal Army," after pelting student protestors with stones, chased a group of seven journalists into the local bishop's residence (See Section 2.b). Gonaives police did not intervene. On November 26, after threatening to do so, Metayer supporters set fire to Radio Etincelle, where three of the journalists worked. On November 28, in coordination with the Government, the President of the Association for Haitian Journalists, Guy Delva, other journalists, and CIMO police units accompanied the seven journalists out of Gonaives. They subsequently went into hiding, where they remained at year's end.

On July 15, Israel Jacky Cantave, a Radio Caraibes journalist, and a colleague disappeared in an apparent kidnaping. Cantave and his severely beaten associate reappeared after a full day of public and government outcry. Cantave and his family left for France shortly after his reappearance, citing continued threats. In mid-August police reported their investigation did not support Cantave's account, suggesting the kidnaping had been a hoax. The authorities have filed no charges of kidnaping or filing a false report but the case remains open.

Foreign journalists generally traveled without hindrance from the authorities. The Government did not censor books or films. However, on September 18 special police forces shut down an open-air concert of the popular music group, Boukman Eksperyans, as it began a song critical of the Government.

The Government did not limit access to the Internet.

The Government did not restrict academic freedom. However, in August some State University of Haiti students protested the appointment of interim rectors, saying the Government exerted too much political influence over the university (see Section 2.b.).

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly. Although a variety of organizations were able to exercise this right without hindrance throughout the year, numerous violations of this freedom occurred in the provinces. CIMO was routinely accused of using excessive force against demonstrators (see Section 1.c.). Civil society groups were sometimes refused permits to assemble, most often in Central Plateau department. Authorities frequently failed to provide security for opposition parties or other groups conducting peaceful demonstrations. Authorities often transported pro-Aristide supporters, armed and unarmed, to announced opposition events and failed to arrest them for throwing rocks or bottles at the demonstrators.

On June 4, the HNP severely beat dozens of demonstrators demanding access to electrical services. On July 27, when armed men (including a CASEC) disrupted a meeting of farmers in the town of Torbeck, police reacted by arresting several of the farmers. In early September, CIMO agents in Mirogoane shot two people and used tear gas on residents demanding public services such as electricity, potable water, and better roads and telephone service. On September 2, CIMO agents used batons to beat demonstrators demanding compensation for losses at failed cooperatives in Port-au-Prince.

In several cases, police inaction allowed organized political militants to violate freedom of assembly rights, and there were numerous violent political demonstrations (see Section 1.a.). On August 14 and 22, groups with pro-Aristide banners and leaflets attacked students demonstrating against the replacement of the rector and vice-rectors of the State University of Haiti. Police present at the scene of the attacks did nothing to prevent or end these attacks. In September the OP Bale Woze, known for attacks on political opponents of FL and led by Saint Marc Parliamentary Deputy Emmaus Maillet, announced it would not permit any anti-FL demonstrations in Saint Marc. A few days later, pro-FL supporters repeating that sentiment in Gonaives clashed with opposition protestors. Eight opposition demonstrators were shot in the ensuing violence.

On November 17, antigovernment demonstrations commemorating the Battle of Vertieres in Cap Haitien peacefully protested Government policies and called for President Aristide's departure. Police units protected the participants from groups of progovernment supporter harassment. On November 18, armed members of the FL informed government employees who had participated in anti-Aristide demonstrations, that, in contravention of labor laws, they had been fired.

In Petit Goave on November 20, police shot and injured eight students initially protesting school fees, corruption, and lack of public services and later denouncing the FL government and calling for President Aristide's departure. Police shot one of the students. On November 21, anti-Aristide student protestors in Petit Goave, Gonaives, and Port-au-Prince called for his resignation. Police in Petit Goave and Port au Prince attempted to maintain order and protect the demonstrators. In Gonaives, pro-FL members of the paramilitary group "Cannibal Army" threw rocks at the students and chased a group of seven journalists into the local bishop's residence (See Section 2.a.). Gonaives police did not intervene.

On November 22, pro-FL supporters blocked main roads in Port-au-Prince with barricades, flaming tires, and parades, effectively halting all business and educational activity. Police and other vehicles bearing official plates passed the roadblocks, and other vehicles were stopped and shaken down for money.

Having obtained the necessary permit, several groups of opposition members in Port au Prince scheduled an anti-government demonstration for December 3, the anniversary of Brignol Lindor's murder. By 9 a.m., pro-Aristide supporters, some armed with guns or bullwhips, occupied the location of the proposed march, beat some would-be participants and threatened others. The scheduled commemorative march did not occur. At the State University of Haiti, BS police units beat some students, two of whom were hospitalized. On December 3 in Cap Haitien, pro-FL supporters attempted to halt anti-Aristide demonstrations by throwing rocks and bottles. Opposition protestors responded in kind. Police used teargas to disperse the crowd.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. The Penal Code requires prior government approval for any association of more than 20 persons that seeks tax benefits and official recognition from the Government.

c. Freedom of Religion

The Constitution provides for the right to practice all religions and faiths, provided that practice does not disturb law and order, and the Government generally respected this right in practice.

In many respects, Roman Catholicism retained its traditional primacy among the country's religions. However, Protestant denominations (primarily Methodist and Baptist) have overtaken the Catholic Church with regard to active members. A large segment of the population practiced Christianity as well as Voudou, a traditional religion derived in part from West African beliefs. While there were associations of Voudou practitioners and priests, there was no organized hierarchy. Official recognition by the Ministry of Religious Affairs gives religious organizations legal standing and tax exempt status, and extends civil recognition to church documents. In April 2001, the Ministry of Religion officially recognized the first Voudou church, the Eglise Vodou d'Ayiti.

Accusations of sorcery, particularly in rural areas, have led to mob violence and killings, and Voudou practitioners were targeted in some cases.

For a more detailed discussion see the 2002 International Religious Freedom Report.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice.

An unknown number of undocumented migrants left the country by sea or land to seek better economic opportunities. The Government's National Migration Office (ONM) was responsible for assisting citizens repatriated from other countries (including the Dominican Republic, the Bahamas, Cuba, and the United States) and frequently provided small sums of money to repatriated migrants for transportation. The ONM recorded 8,902 citizens formally repatriated during the fiscal year. According to the International Organization for Migration (IOM), the Dominican Republic deported approximately 500 Haitians each month. There were reliable reports of family separation and maltreatment of Haitians by Dominican soldiers during the year. There were no credible reports of government mistreatment of repatriated migrants.

The law provides for granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The question of provision of first asylum did not arise. During the year, the Government took no action on its only official asylum claim, brought by a person who had deserted from a third country's army, and his family. Several claimants from Cuba and Sierra Leone were advised by police instead to seek asylum at an embassy or in the Dominican Republic. Both groups reportedly had left Haiti by year's end.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully. In practice, the political system remained in transition from a dictatorial system to a more open and competitive one. The dominant FL political party manipulated legislative elections and exaggerated electoral participation in the 2000 presidential elections. The FL controls all branches of government, including the executive, legislative, and judicial branches. In November 2000, former President Aristide faced only token opposition and was elected to a 5-year term with a reported 91.5 percent of the votes cast. Most local and regional elected leaders were members of the FL.

Under the Constitution and electoral law, a candidate for the Senate or Chamber of Deputies must receive an absolute majority of votes cast to be elected in the first round of voting. If no candidate receives a majority, a second round runoff is required.

Election observers, including the OAS, described the May 2000 legislative and local elections as generally free and fair despite irregular ballot tabulation, numerous reports of ballot theft, and significant candidate and observer intimidation. However, the CEP manipulated election results to ensure that Fanmi Lavalas won 16 of the 17 Senate seats, tabulating only those votes cast for the top four vote getters in each department rather than all valid votes cast. By setting a lower threshold for the absolute majority vote required under the Constitution, this eliminated runoff elections. The OAS Electoral Observation Mission questioned this methodology, which it characterized as a serious error.

Government refusal to correct these manipulations led to a political standoff between the FL and the opposition Democratic Convergence (CD). OAS-sponsored negotiations between the Government and opposition over the May election results continued through the summer with few results. On September 4, the OAS unanimously approved Resolution 822, delinking international economic assistance from the signing of an FL/CD accord. It called on the Government to implement previous OAS resolutions, expressed the expectation that the Government would hold legislative and local elections in 2003, and called on the Government to create a favorable security climate, implement a disarmament plan, strengthen independent police and judicial institutions in order to combat impunity, and participate in the formation of a credible Provisional Electoral Council by November 4 and an Electoral Guarantees Commission (CGE) by December 4. The resolution broadened the mandate of the OAS Special Mission to assist the Government in undertaking its obligations and to monitor and evaluate those efforts. By November 20, eight of the entities comprising the CEP had nominated a representative, though not officially sworn them in. Convergence had not put forth a representative. In reaction to the repression of opposition and student demonstrations on December 3, several CEP sectors considered imposing new conditions for their full participation in the CEP. OAS policy remained focused on implementation of Resolution 822, of which formation of a CEP is a key provision. By year's end neither the new CEP nor CGE had formed.

Pursuant to OAS Resolutions 806 in January, and 822 in September, the Government invited a three-member OAS special inquiry commission to investigate the December 2001 attacks on members of opposition parties. In July the commission concluded that the attack on the palace was not an attempted coup d'etat, and that the political opposition had not participated in the planning or execution of the attack on the palace. Furthermore, the commission determined that the subsequent attacks on the opposition would not have occurred without police complicity. Under international pressure, the Government agreed to pay reparations to the victims and publish a report of actions taken against persons implicated in the events. The Government's September 12 interim report was deemed insufficient to meet these requirements. By year's end, some accounts had been settled but negotiations over the amount of reparations were still ongoing for several others, including the two largest—OPL and MOCHRENA.

On July 4, police arrested Amiot Metayer a suspect in the December violence, on unrelated charges. However, on August 2, armed men attacked Gonaives prison and freed Metayer and 158 others. Since the escape, Metayer has frequently appeared in public and the authorities have not attempted to rearrest him. On November 28, the government-appointed delegate to Gonaives, Kenaz Jean-Baptiste, resigned, days after Metayer and his supporters, the "Cannibal Army," publicly agitated for her departure. The Government replaced her with Metayer's preferred candidate, Ketlene Thelemaque.

Increasingly, affiliation with the FL was required for government employment, and political patronage was widespread. It was common for political appointees to use their positions for personal enrichment. Many of the 2,500 to 3,500 officers on the official HNP payroll were ghost officers who did not actually work.

There were fewer overt attacks on opposition leaders than in 2001, although there were numerous credible threats. The Government continued to accuse opposition supporters of plotting against the State. Members of opposition parties and their supporters faced the constant threat of arrest. In mid-February the police arrested 14 persons, most of them members of the KID political party, on charges of plotting against the State and participating in kidnappings for profit. Most remained in jail for months despite the widespread perception that the charges were without foundation.

On February 10, unknown persons killed the deputy from Gonaives, Marc Andre Dirogene, a FL member. Dirogene had written a letter to then-Prime Minister Cherestal, denouncing corruption at the Gonaives port and customs office. Cherestal reportedly sent a copy of the letter to the FL controlled port and custom authorities, where Amiot Metayer's brother has a prominent post.

On June 24, authorities interrogated 20 CD supporters, detaining 11, after unknown armed men shot and killed a family of 5 in Belladere. Observers claimed that the authorities politicized the crime to implicate CD members.

On August 22, police beat CD leader Gabriel Fortune, a former Les Cayes deputy, following a routine traffic stop.

On October 15, authorities arrested and beat two KID party members involved in an argument over public housing, but did not arrest other parties to the dispute. The whereabouts of the two men remained unknown at year's end and human rights organizations believed that they were dead.

After the November 28 shooting of Belladere Justice of the Peace, Christophe Lozama, in a clash between FL and anti-FL demonstrators, authorities targeted anti-FL protestors for questioning and arrest despite eyewitness accounts that he had been shot by FL supporters. Human rights investigators concluded that pro-government officials exploited Lozama's murder to justify political repression of opposition members in Las Cahobas (See Section 1.a).

There are no legal impediments to women's participation in politics or government. The monetary deposit required of female candidates for political office (if sponsored by a recognized party) is one-half that required of male candidates. At year's end 3 of the 81 deputies were women, and there were 6 women among the 19 senators. Five of the 16 ministers in the Government were women. During the year eight senators resigned and the deputy of Gonaïves was killed.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally acknowledged their views but often failed to implement recommendations. The Government permitted special missions and the continued presence of U.N. bodies and other international organizations such as the International Red Cross, the U.N. Independent Expert on Human Rights, the U.N. Development Fund, the Inter-American Commission on Human Rights, and the OAS Special Mission's human rights office. However, threats and intimidation from unknown sources against domestic NGOs continued during the year.

The number of groups that monitor human rights has grown. Human rights organizations increasingly turned to issues that they had not previously addressed, including prison conditions, the widespread lack of health facilities, and impunity for criminals. Local officials often attempted to control and sought financial support from domestic human rights groups, as well as other local NGOs. Especially in Gonaïves, the Les Cayes region and in the Central Plateau, local officials and their supporters often harassed, refused permits to assemble, and threatened NGOs. Some government officials resented international grants to NGOs and asserted that those monies should be available to the Government.

In January, Patrick Merisier, a field monitor covering the south for the NCHR received leaflets at his home, warning that he would be killed if he did not stop his human rights monitoring and radio broadcasts about the subject. On February 22, two men shot Merisier, and he went into hiding. Authorities have not opened an investigation into the case.

On July 24, two HNP and three armed civilians illegally arrested human rights attorney Fleury Lysias, who was beaten when he refused to pay for his release. Upon learning of his human rights affiliations, Lysias' captors broke his arm and damaged his eardrum. Lysias visited the HNP's Inspector General office three times to request a formal investigation into the case. No investigation had taken place by year's end.

At the national and international levels, human rights organizations have been active and effective in monitoring human rights issues, and met frequently with government officials. Human rights organizations, including the Platform of Haitian Human Rights Organizations, the NCHR, the Lawyers' Committee for the Respect of Individual Rights, the Ecumenical Center of Human Rights (CEDH) and the Catholic Bishops' National Commission on Justice and Peace, made frequent media appearances and published objective reports on violations. All reported receiving threats as a result of their work.

In June the OAS began a Special Mission to Haiti to strengthen democratic institutions, with a primary focus on justice and human rights. The resident OAS human rights officers' mandates were limited to training in human rights and strengthening institutional capacity (see Section 2.a.).

Investigators made no arrests or progress in the 1999 attempted killing of human rights activist Pierre Esperance, NCHR country director. The HNP's investigation remained open in this case, but by all accounts was inactive.

The Office of the Protector of Citizens (OPC), an ombudsman-like office provided for by the Constitution, received complaints of abuse at all levels of government. From September 2001 to October, the OPC received and investigated 488 complaints and resolved 50. More than half related to police abuse; the others were brought often by government employees and involved labor disputes. The Government did not directly impede OPC investigations but did not always respond to its requests for information. Local human rights organizations did not view the office as an advocate or interlocutor with the Government, and often did not file complaints with the OPC, reporting that OPC did not play an active role following up on human rights complaints. During the year, following the appointment of Necker Dessables, a respected human rights advocate, relations between the OPC and major human rights organizations such as the Platform for Human Rights and the Lawyers Committee for the Respect of Individual Rights (CARLI), improved. In addition to investigating complaints and monitoring prison conditions, the OPC conducted a number of training seminars throughout the year, focusing on civic education in schools and criminal procedure for penal system officials. The OPC had budgetary problems and employed only four investigators.

The Parliament's Justice and Human Rights Committee, created in 2000, did not have a high profile and focused largely on judicial issues during the year.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution does not specifically prohibit discrimination on the grounds of race, sex, disability, language, or social status. It does provide for equal working conditions regardless of sex, beliefs, or marital status. However, there was no effective governmental mechanism to administer or enforce these provisions.

Women

The law provides penalties for rape and domestic violence; however, the Government did not enforce these provisions adequately. According to women's rights groups, rape and other abuse of women was common, both within and outside marriage. Women's shelters and organizations reported that girls and women in the "quartiers populaires" (slums) like Cite Soleil and Martissant are frequently raped and harassed by local armed thugs. Police authorities rarely arrest the perpetrators or investigate the incident, and the victims sometimes suffer further harassment in retaliation. Natacha Jean Jacques, an adolescent girl from Martissant who was detained in 2000 for murder and then raped by a prison official, had previously filed a police complaint against several young men, including the murder victim, after they sexually harassed and threatened her. After her complaint to the police, the group of young men she had accused went to her house and confronted the girl. According to witnesses, Jean Jacques killed the victim with a knife that one of the men had dropped. She remained incarcerated and had not faced trial by year's end (See Section 1.c).

A 1998 study by the Haitian Center for Research and Action for the Promotion of Women documented widespread rape and violence against women. The report also found that many women did not report these forms of abuse due to fear, shame, or lack of confidence in judicial remedies. A 1999 survey by UNICEF of violence against women found that 37 percent of women reported they were victims of sexual violence or reported knowing a woman who had been; another 33 percent reported being victims of other types of physical abuse. There were no government-sponsored programs for victims of violence. The Criminal Code excuses a husband who murders his wife or her partner upon catching them in the act of adultery in his home, but a wife who kills her husband under similar circumstances is not excused.

The law does not prohibit specifically sexual harassment, although the Labor Code states that men and women have the same rights and obligations. Sexual harassment of female workers was a problem, especially in the assembly sector (see Section 6.b.).

Women do not enjoy the same social and economic status as men. In some social strata, tradition limits women's roles. A majority of peasant women remain in traditional occupations of farming, marketing, and domestic labor. Very poor female heads of household in urban areas also often find their employment opportunities limited to traditional roles in domestic labor and sales. Laws governing child support recognize the widespread practice of multiple-father families but were rarely enforced. Female employees in private industry or service jobs, including government jobs, were seldom promoted to supervisory positions. However, well-educated women have occupied prominent positions in both the private and public sector in the past several years.

The Ministry of Women's Affairs is charged with promoting and defending the rights of women and ensuring that they attain an equal status in society, but had few resources at its disposal and was able to accomplish little in this regard.

Domestic women's rights groups were small, localized, and received little publicity.

Children

Government health care and education programs for children were inadequate. Malnutrition was a problem; approximately 23 percent of all children under 5 were chronically malnourished. The Government has a school nutrition program, administered through the Office of National Development and supported by foreign donors. Through this program, health clinics and dispensaries have begun to distribute donated food to children.

The Constitution and the law provide for free and compulsory primary education; however, in practice most rural families had no access to public schools. The costs of school fees, books, materials, and uniforms, even in public schools, were prohibitive for most families, and an estimated 90 percent of schools were private. Schools were dilapidated and understaffed. According to the Government, 40 percent of children never attend school; of those who do, less than 15 percent graduate from secondary school. The Ministry of Education estimated primary school enrollment at 65 percent. Poorer families sometimes ration education money to pay school fees only for male children.

Child abuse was a problem. Radio commercials urged parents not to abuse their children physically or mentally. There was some anecdotal evidence that in very poor families, caretakers deprive the youngest children of food to feed older, income-generating children.

In September 2001, Parliament passed a law banning corporal punishment of children, which ordered all schools to post clearly their disciplinary policies. It also called for the establishment of a commission to determine appropriate school disciplinary measures. In practice, corporal punishment was accepted as a form of discipline.

Port-au-Prince's large population of street children included many domestic servants (restaveks) who were dismissed from or fled employers' homes (see Section 6.f.). The Ministry of Social Affairs provided some assistance to street children.

Several international and local NGOs worked on children's issues. For example, the Haitian Coalition for the Defense of the Rights of the Child (COHADDE) promotes children's rights by conducting awareness raising activities.

Persons with Disabilities

The Constitution provides that persons with disabilities shall have the means to ensure their autonomy, education, and independence. However, there was no legislation to implement these constitutional provisions or to mandate provision of access to buildings for persons with disabilities. Given the severe poverty in which most citizens live, those with disabilities faced a particularly harsh existence even though they did not face overt mistreatment. Disabled beggars were common on the streets of Port-au-Prince and other towns.

National/Racial/Ethnic Minorities

Approximately 99 percent of Haitians are descendants, in whole or in part, of African slaves who won a war of independence from France in 1804. The remaining population is of European, Middle Eastern, North American, or Latin American origin. The law makes no distinction based on race. However, longstanding social and political animosities were often tied to cultural identification, skin color, and overlapping issues of class in a starkly nonegalitarian society. Some of these animosities date back to before the country's revolutionary period.

Racial distinctions tend to parallel social and economic strata. Mulattos generally belong to the wealthiest classes of society. Mulattos historically have been targets of sporadic attacks because they were perceived as wealthy.

The Government recognizes two official languages: Creole, spoken by virtually all Haitians; and French, limited to approximately 20 percent of the population including the economic elite. Lack of French-language skills limited access to political and economic opportunities for the majority of the population. Although Creole was used in parliamentary debate in the Lower House of Parliament, the Government prepared most official documents only in French. Language also remained a significant barrier to full access to the judicial system (see Section 1.e.). Despite the Government's literacy promotion, many Creole speakers were illiterate.

Section 6 Worker Rights

a. The Right of Association

The 1987 Constitution and the Labor Code provide for the right of association. Public sector workers are organized pursuant to Article 31 of the 1987 Constitution.

The law protects union activities and prohibits a closed shop. For legal recognition the law also requires that a union, which must have a minimum of 10 members, register with the Ministry of Labor and Social Affairs within 60 days of its formation. The Labor Code does not require prior approval before any association is established. Unions are subject to the same registration requirements as other associations (see Section 2.b.). The law prohibits employers, management, and anyone who represents the interests of employers from joining a union.

In theory unions are independent of the Government and political parties. Nine principal labor federations represented approximately 5 percent of the total labor force of approximately 2.8 million persons, including the approximately 2 to 3 percent working in the industrial sector. Union membership has decreased significantly, but remains active in the public sector. Some union representatives asserted that union activists not affiliated with the Government were forced into self-exile.

Several unions have pending grievances over worker rights violations against the Government before the International Labor Organization (ILO) and the International Confederation of Free Trade Unions. These include the National Confederation of Haitian Teachers (CNEH), the Autonomous Central of Haitian Workers (CATH), and the General Independent Organization of Haitian Workers. Three major teachers' unions—the CNEH, the National Union of Trained Teachers, and the High School Teacher's Union—accused the Ministry of National Education of unfair labor practices. They accused the Education Ministry of implementing changes in a labor contract without advance notification or due opportunity to negotiate changes. Public school teachers have not yet received a 32 percent cost of living adjustment that the Minister of Education promised in 1997, and at year's end, had not received a paycheck since October.

Labor unions reported several cases of threats and arrests during the year. Leaders of several major labor confederations reported receiving threats and demands to support the Fanmi Lavalas party. In March police beat members of a textile union demonstrating for compensation after being fired. On May 27, armed supporters of San Raphael municipal authorities attacked a group of Batay Ouvriye activists attempting to organize agricultural workers and negotiate their right to exploit fallow land (see Section 2.a.). Two demonstrators and one local official supporter died. Police arrested 11 persons, including 2 journalists. On August 21, all but two labor union leaders, Jeremie Dorvil and Urbain Garcon, were released. They remained incarcerated until December 2, when they were freed. There was no progress in the investigation of the 2000 killing of CATH member Elison Merzilus.

On June 19, the ILO criticized the Government for not having considered the input of the union sector in selecting the June ILO conference delegation. Sector representatives asserted that the Minister of Social Affairs selected only progovernment delegates.

Union leaders asserted that some employers in the private industrial sector dismissed individuals for participation in union organizing activities. In 2000 the ILO criticized the Labor Code for its failure to include a specific provision providing protection against antiunion discrimination at the time of hiring.

Unions may freely form or join federations or confederations and affiliate with international bodies. Each of the principal labor federations maintained some fraternal relations with various international labor organizations.

b. The Right to Organize and Bargain Collectively

The Labor Code protects trade union organizing activities and stipulates fines for those who interfere with this right but does not provide for reinstatement of workers fired for trade union activities. No fines were issued during the year. Unions generally were free to pursue their goals, although the Government made little effort to enforce the law.

Organized labor activity was concentrated in the Port-au-Prince area, in state enterprises and in the civil service. High unemployment rates and antiunion sentiment among some factory workers and most employers limited the success of union organizing efforts.

Collective bargaining was nonexistent, and employers set wages unilaterally. The Labor Code does not distinguish between industries producing for the local market and those producing for export. Employees in the export-oriented assembly sector enjoyed better than average wages and benefits. However, frequent verbal abuse and intimidation of workers and organizers was a problem in the assembly sector. Female workers in the assembly sector reported that some employers sexually harassed female workers with impunity. Women also reported that while most assembly sector workers were women, virtually all supervisors were men. Workers had access to labor courts (Tribunaux de Travail) set up to resolve common labor-management disputes. The courts function under the supervision of the Ministry of Labor and Social Affairs and adjudicate minor conflicts, but unions stated that the process is inefficient. Seven labor courts operate in Port-au-Prince, and in the provinces plaintiffs utilize municipal courts.

The Labor Code provides for the right to strike, except for managers, administrators, other heads of establishments, and public utility service workers. The Labor Code defines public utility service employees as essential workers who "cannot suspend their activities without causing serious harm to public health and security." There were few public sector strikes during the year. In May hospital residents went on strike to protest lack of supplies and the diversion of existing supplies to administrators. When the Government intervened and provided additional materials, residents resumed work. On November 20, emergency room workers at Port-au-Prince's only public hospital, the Hospital of the State University of Haiti, went on strike protesting a lack of security. That day an armed person entered the emergency room, and searched for and killed a patient admitted the previous evening. The strike was ongoing at year's end and surgical, physician and nursing services had completely stopped.

There were no export processing zones. However, the Government's 5-year economic program calls for the creation of two export processing zones, one in Cabaret and another in Cap-Haïtien. The Government passed legislation governing free trade zones, and signed an agreement with a Dominican textile company to build a production facility in a newly established free trade zone on the border near Ouanaminthe. Batay Ouvriye vehemently opposed the project and progress has stalled pending legislative authorization of the land concession. The authorization had not been granted by year's end.

c. Prohibition of Forced or Bonded Labor

The Labor Code prohibits forced or bonded labor for adults and minors; however, the Government failed to enforce this law for children, who continued to be subjected to forced domestic labor as *restaveks* in urban households under conditions that amount to slavery (see Sections 5 and 6.d.).

Most Haitians who work in the Dominican Republic went there freely; however, there were cases of trafficking rings coercing Haitian workers to work in Dominican sugar cane fields. Internal trafficking in children as *restaveks* was the most serious problem (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment

The minimum employment age in all sectors is 15 years, with the exception of domestic service, for which the minimum is 12 years of age. The Labor Code prohibits minors from working under dangerous conditions, and prohibits night work in industrial enterprises for minors under 18. There is also a legal provision for employment of children between the ages of 12 and 16 as apprentices. Fierce adult competition for jobs ensured child labor was not a factor in the industrial sector; however, children under the age of 15 commonly worked at informal sector jobs to supplement family income. Children also commonly worked with parents on small family farms, although the high unemployment rate among adults kept children from employment on commercial farms in significant numbers. The Labor Code prohibits forced and bonded child labor; however, forced child labor was a problem (see Section 6.c.). Government agencies lack the resources to enforce relevant laws and regulations effectively. According to COHADDE, children worked primarily as domestic servants (*restaveks*); however, some worked on the street as vendors or beggars, and some were involved in prostitution (see Sections 5 and 6.f.).

The Government designated the Ministry of Labor and Social Affairs' Social Welfare and Research Institute (IBESR) to implement and enforce child labor laws and regulations. The Government did not devote adequate resources and oversight to child labor policies. The budget for the entire Ministry is far below what is needed to fund adequately programs to investigate exploitative child labor cases throughout the country.

The IBESR coordinated efforts with the Ministries of Justice, Education, and Foreign Affairs, as well as local and international agencies, to formulate and enforce child labor policies. The Government signed a Memorandum of Understanding with ILO/IPEC (International Program for the Elimination of Child Labor) in 1999. IPEC began a Child Labor Project in January 2000, scheduled to end in December, and developed a framework of action focusing on institutional capacity building, prevention through awareness-raising, and direct assistance to victims of child labor. A much-lauded government-sponsored hot line for children in crisis operated only during regular business hours and had limited resources and access to safe shelters. In August NCHR-New York inaugurated a program to prevent the *restavek* practice, improve living conditions for and rescue these children, and reintegrate them into society (see Section 6.f.).

The Government has not ratified and does not adhere to ILO Convention 182 on Child Labor. It has not defined "worst forms of child labor" or "hazardous work."

e. Acceptable Conditions of Work

The legal minimum daily wage, established in 1995 by the Tripartite Commission of Salaried Workers, whose six members were appointed by the President (two representatives each of labor, employers, and government), is approximately \$0.96 (36 gourdes). This wage was insufficient to provide a decent standard of living for a worker and family. Some workers were paid on a piece-rate basis, and may earn more than the minimum wage. The majority of citizens worked in the informal sector and subsistence agriculture, where minimum wage legislation does not apply and wages of \$0.40 (15 gourdes) a day were common. Many women worked as domestic employees, where minimum wage legislation also does not apply.

The Labor Code governs individual employment contracts. It sets the standard workday at 8 hours and the workweek at 48 hours, with 24 hours of rest on Sunday. However, HNP officers worked 12-hour shifts 6 days per week, in apparent violation of the Labor Code. The code also establishes minimum health and safety regulations. The industrial and assembly sectors largely observed these guidelines. However, the Ministry of Social Affairs did not enforce work hours or health and safety regulations.

The assembly sector published a voluntary code of conduct in 1999, committing signatories to a number of measures designed to raise industry standards, including payment of the minimum wage and the prohibition of child labor. Employers in the assembly sector generally paid the minimum wage or higher. Working conditions were also generally better in this sector. There were no reports of child labor in this sector.

There was no formal data, but unions allege that job-related injuries were prevalent in the construction industry and public works sectors. With more than 50 percent of the population unemployed, workers were not able to exercise the right to remove themselves from dangerous work situations without jeopardy to continued employment.

f. Trafficking in Persons

The law does not prohibit trafficking in persons, and internal trafficking of children was a problem. Haiti also was a country of origin for trafficked children. Haitians trafficked overseas were sent largely to the Dominican Republic, the U.S., Europe (mainly France), and Canada. In August UNICEF reported that between 2,000 and 3,000 Haitian children are trafficked to the Dominican Republic each year. The findings are the result of a joint UNICEF/International Organization for Migration (OIM) study. However, most trafficking occurs within the country's borders and involves children. Children were primarily trafficked for labor, but some were trafficked for purposes of prostitution.

Rural families continued to send young children to more affluent city dwellers to serve as unpaid domestic labor in a practice called "*restavek*" ("lives with" in Creole), and frequently received financial compensation. The practice of sending children, mainly girls, to work as domestic servants in exchange for that child's room and board has existed in the country for centuries. While some *restaveks* received adequate care including an education, the Ministry of Social Affairs believes that many employers compelled the children to work long hours, provided them little nourishment, and frequently beat and abused them. The majority of *restaveks* worked in homes where the yearly income was very low, so conditions, food, and education for nonbiological children were not priorities.

In a 1998 study, UNICEF estimated that 250,000 to 300,000 children were victims of this form of servitude, although a government-supported study reported only 90,000 to 120,000 *restaveks*. UNICEF reported that the average *restavek* was between 11 and 14 years of age; however, more than 20 percent were between the ages 4 and 10, and 85 percent were girls. Rape by host family members was reported by 23 percent of these girls, 15 percent of whom became pregnant. Nearly 77 percent of all *restaveks* had never attended school. Among those who had, only 2 percent reached secondary school. The law requires that *restaveks* 15 years of age and older be paid not less than one half the amount paid to an adult servant hired to perform similar work, in addition to room and board. To avoid this obligation, employers dismiss many *restaveks* before they reach that age.

Most local human rights groups did not consider this practice abuse nor did they work to improve the situation of restavek children. The Ministry of Social Affairs claimed little power to stop this practice, which it regarded as economically motivated and citing a lack of financial resources, no longer employed monitors to oversee the welfare of restavek children. Society held such children in little regard.

The Government acknowledged the problem of internal trafficking and took steps to address it, despite severe resource constraints. The Government devoted the bulk of its entire social welfare budget to combating the trafficking of children. For example, the Government ran a media campaign to prevent the mistreatment of children and maintained a hot line for victims. However, these efforts resulted in the removal of less than 200 children from abusive households during the year. Government officials placed rescued victims in shelters and in the care of local NGOs. The ILO, at the Government's request, is developing a framework to address the gap between practice, national legislation, and international standards with regard to combating trafficking in children. There was no evidence that the authorities were complicit in trafficking.